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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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Application Number: 09/744,675  
Applicants: Edward L. Squires, Patrick M. McCue, George E. Seidel  
Filed: January 29, 2001  
Title: Equine System for Non-Surgical Artificial Insemination  
TC/A.U: 1634  
Examiner: Carla J. Meyers  
Assignee: XY, Inc.  
Attorney Docket: XY-Equine3-USNP  
Customer No.: 33549

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Attachment A

Declaration of George Seidel filed by Applicant

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**AFFIDAVIT UNDER 37 C.F.R. §1.132**

UNITED STATES OF AMERICA                    )  
STATE OF COLORADO                            ) ss.  
COUNTY OF LARIMER                            )

I, George Seidel, a resident of LaPorte, in the County of Larimer, and the State of Colorado, duly sworn and under oath, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

I am an employee of Colorado State University, Assignee of the above-referenced patent application (the "Present Application") at the time such patent application was filed, and my title with Colorado State University is Professor.

I am an inventor of the subject matter described in claim 138, step (g), of the Present Application as currently amended, a copy of which is attached to this Affidavit as Exhibit "A".

I am aware of and have reviewed U.S. Patent No. 6,149,867 (the "Reference Patent"), the subject matter for which I am also an inventor. A copy of the first page of the Reference Patent is attached to this Affidavit as Exhibit "B". The effective filing date of the Reference Patent is December 31, 1997.

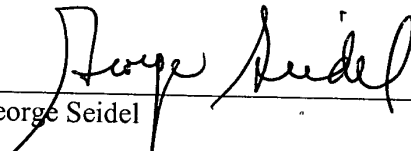
I unequivocally declare that I was in possession of the subject matter of claim 138, step (g), of the Present Application as currently amended prior to the effective filing date of the Reference Patent. Such possession is evidenced by the Declaration attached to this Affidavit as Exhibit "C".

This Declaration was executed by me for the patent application on which the Reference Patent was ultimately granted (the "Reference Application"). A copy of the Reference Application as I reviewed it is attached to this Affidavit as Exhibit "D". The Declaration contains my notarized signature and is dated December 30, 1997, which is one day prior to the effective filing date of the Reference Patent. The Declaration also contains my statement that I had reviewed and understood the contents of the Reference Application. These contents necessarily include the statement on page 6, lines 14-16 that "[a] parallel goal is to provide substances and techniques which are especially suited for... equine sperm cells, and for the separation of such sperm cells into X- and Y-chromosome bearing components" and the statements on page 10, lines 19-22 that "[i]n the application of a high speed cell sorter to the sorting of sperm cells, sorting at rates of greater than about 500 sorts per second is achieved" and "[i]n fact, rates of sorting in the thousand and twelve hundred ranges have already been achieved through a high speed cell sorter".

These facts demonstrate that I was in possession of the subject matter of claim 138, step (g), of the Present Application as currently amended prior to the effective filing date of the Reference Patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

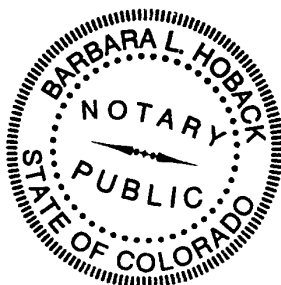
Dated this 31 day of October, 2006.

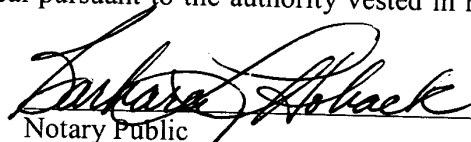
  
George Seidel

UNITED STATES OF AMERICA )  
STATE OF COLORADO )ss.  
COUNTY OF LARIMER )

SUBSCRIBED AND SWORN to before me in the County of Larimer, State of Colorado, United States of America, by George Seidel, this 31 day of October, 2006.

WITNESS my hand and official seal pursuant to the authority vested in me as a Notary Public by the State of Colorado.



  
Notary Public

My Commission Expires: 2-28-2010